

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 MARC SPITZER
COMMISSIONER

5
6 IN THE MATTER OF THE GENERIC
PROCEEDINGS CONCERNING ELECTRIC
RESTRUCTURING ISSUES.

DOCKET NO. E-00000A-02-0051

7
8 IN THE MATTER OF ARIZONA PUBLIC
SERVICE COMPANY'S REQUEST FOR
9 VARIANCE OF CERTAIN REQUIREMENTS OF
A.A.C. R14-2-1606.

DOCKET NO. E-01345A-01-0822

10 IN THE MATTER OF THE GENERIC
11 PROCEEDING CONCERNING THE ARIZONA
INDEPENDENT SCHEDULING
12 ADMINISTRATOR.

DOCKET NO. E-00000A-01-0630

13 IN THE MATTER OF TUCSON ELECTRIC
POWER COMPANY'S APPLICATION FOR A
14 VARIANCE OF CERTAIN ELECTRIC
COMPETITION RULES COMPLIANCE DATES.

DOCKET NO. E-01933A-02-0069

15 IN THE MATTER OF THE APPLICATION OF
16 TUCSON ELECTRIC POWER COMPANY FOR
APPROVAL OF ITS STRANDED COST
17 RECOVERY.

DOCKET NO. E-01933A-98-0471

PROCEDURAL ORDER

18 **BY THE COMMISSION:**

19 On April 25, 2002, during the Arizona Corporation Commission's ("Commission") Special
20 Open Meeting, the Commissioners stayed Arizona Public Service Company's ("APS") variance
21 hearing which was scheduled to begin on April 29, 2002.

22 On April 29, 2002, a procedural conference was held in the generic docket to discuss how to
23 proceed with the issues identified by the Commissioners at the Special Open Meeting.

24 Accordingly, the Commission will set the following timeframes for the parties to address the
25 issues identified during the April 25, 2002 Special Open Meeting. The hearing on the issues
26 identified in Staff's April 23, 2002 Response to Arizona Public Service Company's Motion for
27 Determination of Threshold Issue – the transfer of assets and associated market power issues, as well
28 as the issues of the Code of Conduct, the Affiliated Interest Rules, and the jurisdictional issues raised

1 by Chairman Mundell, (collectively, the "Track A" issues) will be conducted beginning on June 17,
2 2002.¹ The Competitive Solicitation ("Track B") will proceed concurrently with Track A, with a
3 target completion date of October 21, 2002. Parties should submit a list of qualified persons to act as
4 an independent consultant/evaluator, and docket a list of proposed issues for consideration as well as
5 a procedural timetable (including comment periods) for meeting the October 21, 2002 completion
6 date, no later than May 13, 2002. Staff should immediately begin any necessary procurement
7 procedures, in order to ensure that the process is not delayed. Staff and the parties should meet
8 during the week of May 20th to discuss the issues and timeframes proposed.

9 Although the Commission's Special Open Meeting addressed the issues in the context of the
10 APS variance docket, many of the same issues also affect TEP. Accordingly, as this is a generic
11 docket proceeding, the parties should address their testimony and evidence to encompass TEP as
12 well.

13 IT IS THEREFORE ORDERED that the hearing on the Track A issues will commence on
14 June 17, 2002, at 9:30 a.m. at the Commission's offices in Phoenix, Arizona.

15 IT IS FURTHER ORDERED that all parties shall file initial testimony and associated exhibits
16 on the Track A issues on or before **noon on May 29, 2002**.

17 IT IS FURTHER ORDERED that all parties shall file rebuttal testimony and associated
18 exhibits on the Track A issues on or before **noon on June 11, 2002**.

19 IT IS FURTHER ORDERED that all testimony filed shall include a table of contents which
20 lists the issues discussed.

21 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to
22 pre-filed testimony shall be reduced to writing and filed no later than five days before the witness is
23 scheduled to testify.

24 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the
25 pre-filed testimony of each of their witnesses and shall file each summary at least two working days
26 before the witness is scheduled to testify.

27
28 ¹ The hearing will continue to the end of the week, and resume, if necessary, on June 27 & 28. This schedule is designed to have a Recommended Order issued by approximately July 22, and exceptions due July 31, 2002.

1 IT IS FURTHER ORDERED that copies of summaries should be served upon the Presiding
2 Officer, the Commissioners, and the Commissioners' aides as well as the parties of record.

3 IT IS FURTHER ORDERED that a **pre-hearing conference will be held on June 14, 2002**
4 **at 10:00 a.m.** for the purpose of scheduling witnesses² and the conduct of the hearing.

5 IT IS FURTHER ORDERED that any objections to any testimony or exhibits which have
6 been pre-filed as of June 11, 2002, shall be made before or at the June 14, 2002 pre-hearing
7 conference.

8 IT IS FURTHER ORDERED that the parties shall enter into protective agreements in order to
9 facilitate the orderly discovery process.

10 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
11 regulations of the Commission, except that: **until May 29, 2002, any objection to discovery**
12 **requests shall be made within 7 days³ of receipt and responses to discovery requests shall be**
13 **made within 10 days of receipt; for discovery requests issued on and after May 29, 2002, any**
14 **objection to discovery requests shall be made within 5 days of receipt and responses to**
15 **discovery requests shall be made within 7 days of receipt;** the response time may be extended by
16 mutual agreement of the parties involved if the request requires an extensive compilation effort.

17 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
18 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
19 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a
20 request, a procedural hearing will be convened as soon as practicable; and that the party making such
21 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the
22 hearing provide a statement confirming that the other parties were contacted.⁴

23 IT IS FURTHER ORDERED that no later than May 13, 2002, the parties shall submit to Staff
24 a list of qualified persons to act as an independent consultant/evaluator, and file with Docket Control
25

26 ² Given the expedited schedule, there will be limited opportunity to schedule witnesses for dates certain, and the parties
27 are put on notice to make their witnesses available during the week of June 17-21.

28 ³ "Days" means calendar days.

⁴ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before
seeking Commission resolution of the controversy.

1 a list of proposed issues for consideration as well as a procedural timetable (including comment
2 periods) for meeting the October 21, 2002 completion date for Track B, Competitive Solicitation.

3 IT IS FURTHER ORDERED that Staff shall begin any required procurement process as soon
4 as possible and that the parties and Staff should meet during the week of May 20, 2002, to discuss the
5 issues and timeframes proposed.

6 IT IS FURTHER ORDERED that Staff and the parties shall keep the Commission and the
7 Hearing Division apprised of the progress being made on Track B through docket filings, and shall
8 immediately contact the Hearing Division if additional issues need to be resolved.

9 IT IS FURTHER ORDERED that Staff, APS, and TEP shall work together to provide notice
10 of these proceedings in such a way as to provide as full notice and opportunity for participation on
11 the part of the public as possible. Staff, APS, and TEP shall docket evidence of such notice no later
12 than June 7, 2002.

13 IT IS FURTHER ORDERED that parties and the general public are put on notice that the
14 Commission may initiate rulemaking(s), or, pursuant to A.R.S. § 40-252, after hearing, enter such
15 orders as may be appropriate relating to electric restructuring, including variances from Commission
16 rules and/or Decisions.

17 IT IS FURTHER ORDERED that any party who wishes to accept service via electronic email
18 shall file such a document with the Commission, indicating how such service should be effected.

19 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
20 not ruled upon by the Commission within 10 days of the filing date of the motion shall be deemed
21 denied.

22 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of
23 the filing date of the motion.


24 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date
25 of the response.

26 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
27 Communications) applies to this proceeding as the matter is now set for public hearing.

28 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive

any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing

DATED this 2nd day of May, 2002.


LYN FARMER
CHIEF ADMINISTRATIVE LAW JUDGE

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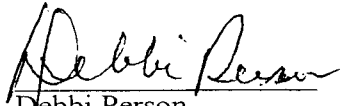
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